REMARKS

Claims 1-11 and 13-20 remain pending in the subject application. Claim 12 was previously canceled. No other claims have been amended or canceled, and no claims are withdrawn, via the present Response. As such, no new matter has been added.

Claims 1-11 and 13-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,114,994 to Ito et al. (hereinafter referred to as the '994 patent or Ito). The Applicants respectfully traverse these rejections because the Examiner has failed to properly establish a case of anticipation.

Withdrawal of Finality and Telephonic Communications with the Examiner

As a preliminary matter, the Applicants requested reconsideration of this Final Office Action. Specifically, during the week of August 13, 2010, the Applicants' attorney telephonically communicated with the Examiner regarding the present Office Action. Ultimately, based on the deficiencies of the prior art as described further below, the Examiner indicated that she would withdraw finality of the present Office Action, consider the allowability of the claims, or issue a new Non-Final Office Action, restarting the time period to reply.

The Applicants thank the Examiner for her time and for her indication to withdraw finality. Presented below is merely a supplemented response by the Applicants detailing the deficiencies of the prior art for the record, thereby traversing the current rejections related to the same and making finality of the present Office Action improper.

Current Rejections over the '994 Patent/Ito

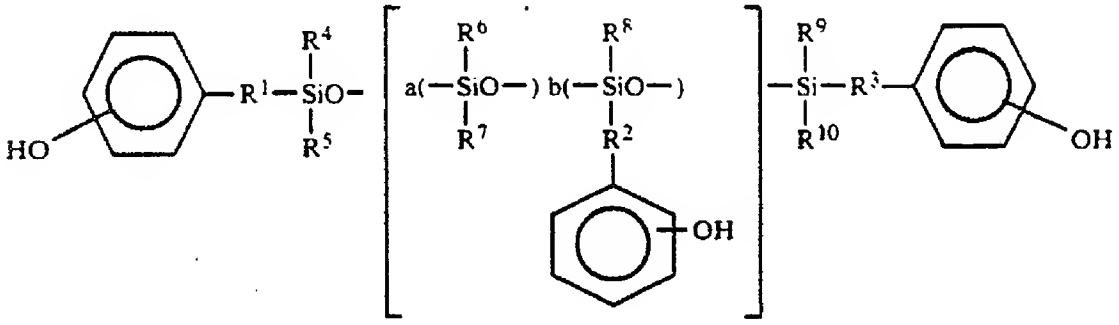
The Applicants do not concede any of their previous arguments, but instead focus herein on the Examiner's "Response to Arguments" on page 2 of the present Office Action for sake of brevity.

In response to the Applicants' arguments attacking the lack of silicone branching units in Ito's silicone structures, the Examiner states on page 2 of the subject Office Action that:

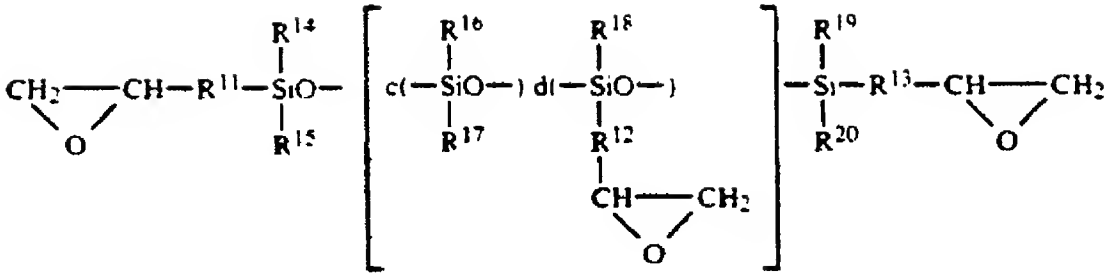
> ...no where in the specification does Ito limit their silicone to a linear form. Furthermore, Ito describes the R groups of the silicone, that being R4-R10, as being capable of being alkyl groups and alkoxy groups, preferably having 1-5 carbon atoms such as methoxy, ethoxy, or propoxy groups (column 6, lines 3-18), which anticipate M, D, T, and Q groups. Thus, the 102(b) rejection based upon the silicones of Ito is a proper rejection.

The Applicants must respectfully disagree with the Examiner's interpretation of Ito and assert that the Examiner's rejections are improper and therefore must be withdrawn.

Regarding Ito, Ito need not expressly state in words that their silicones are "linear" in form. Ito instead limits their silicone by expressly teaching the structures of their denatured silicone oil A, which has the following general formula (I):



with R^1-R^{10} being defined in the '994 patent, and the structure of denaturated silicone oil B which has the following general formula (II):



with R^{11}-R^{20} being defined in the '994 patent.

In both Office Actions to date, the Examiner has correlated denatured silicone oil A of the '994 patent to claimed component (A) in the subject application, and has correlated denatured silicone oil B of the '994 patent to claimed component (B) of the subject application.

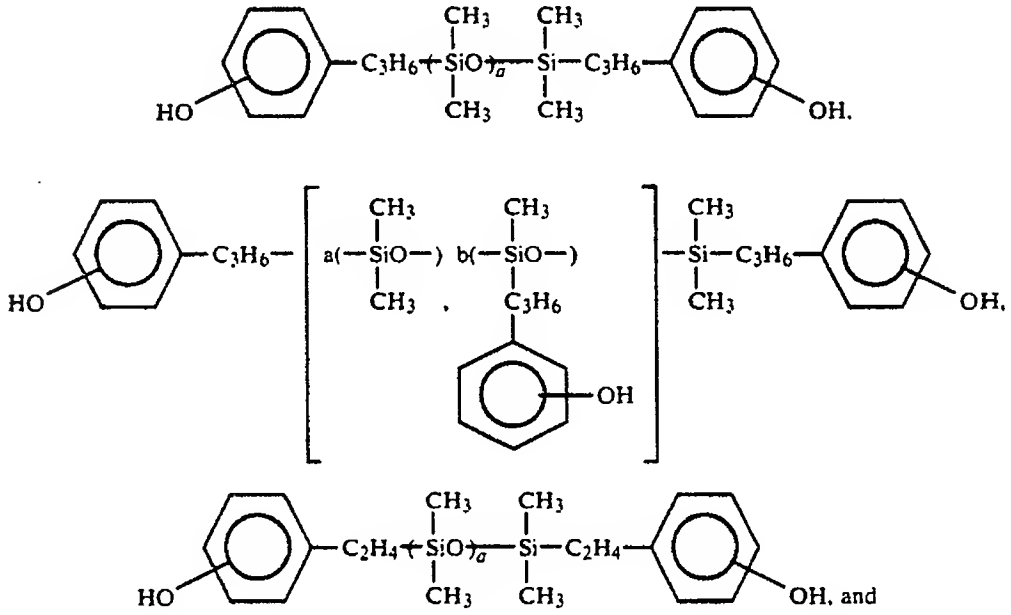
The Examiner then relies, in error, on the R groups of general formula (I) of Ito in the present Office Action in an attempt to establish component (A) of the present invention, as claimed. However, as the Examiner even states herself (see above), the R groups have 1-5 carbon atoms. Alkoxy groups are taught by Ito, including Ito's five preferred 1-5 carbon alkoxy groups illustrated below (formulas/structures provided by the Applicants):

- Methoxy: CH3O or $-O-CH_3$
- Ethoxy: C2H5O or $-O-CH_2-CH_3$
- Propoxy: C3H7O or $-O-CH_2-CH_2-CH_3$
- Butoxy: C4H9O or $-O-CH_2-CH_2-CH_2-CH_3$
- Pentoxy: C5H11O or $-O-CH_2-CH_2-CH_2-CH_2-CH_3$

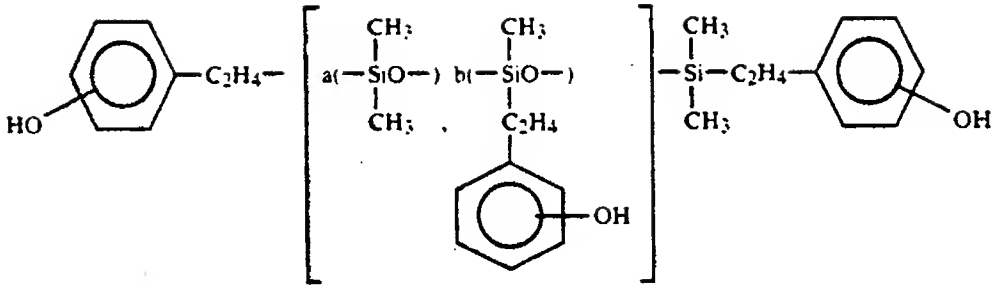
However, such alkoxy groups are in no way equivalent to silicon-based M, D, T, and Q groups as the Examiner asserts in the present Office Action. Ito's silicones have side/pendent groups, e.g. R^2-R^{10}, but one of ordinary skill in the polymeric art understands that such groups are not equivalent to branches, and one further skilled in the silicone art appreciates that M, D, T and Q

units are based on complex silicone (-Si-O-) polymer structures, not -C-O- bonds. Of the four possible units, T units and Q units are the only units that impart branching in organopolysiloxanes, as claimed for the present invention. Ito does not teach or even suggest T units or Q units, i.e., chain *branchers*. The only possible interpretation of Ito's silicones in this regard is that Ito's silicones include M units and D units, i.e., chain *extenders* and chain *cappers*. Referring to Appendix A[1] attached herewith, it can be appreciated that alkoxy groups are not equivalent to branching in silicone chemistry, let alone the specific structures claimed in the pending application.

Ito's reliance on linear silicones is reinforced repeatedly throughout the specification of the '994 patent. For example, on pages 4 and 5 of Ito, preferred examples of denatured silicone oil A are illustrated as the following:



[1] Brook, Michael A., *Silicon in Organic, Organometallic, and Polymer Chemistry*, John Wiley & Sons (2000).



The Examiner can surely appreciate that none of Ito's structures include a branch that extends off from the linear polymeric backbone. Instead, Ito's structures merely have groups *pending from* the linear polymeric backbone. Even if, for arguments sake, one were to swap out one or more of the R groups above, e.g. a $-CH_3$ group, for an alkoxy group, e.g. a $-O-CH_2-CH_3$, this does not change the fact that branching (i.e., T units and/or Q units) is never present in, or suggested by, Ito. As such, in relying on the disclosure of the '994 patent, the Examiner has not established a proper rejection under §102(b), and the Examiner's rejections are respectfully traversed.

Notwithstanding the above, the Applicants also note that dependent claims 3, 4, 13, and 14 expressly claim specific embodiments of the silicone unit formula for claimed component (A) (though clearly independent claim 1 is not limited to such specific embodiments), and these specific embodiments include either T units or Q units. In view of the clarifying arguments herein, and with reference to Appendix A (as well as other sources the Examiner may wish to consult), it is clear that the '994 patent in no teaches or suggests the situation where a T unit and/or Q unit is present in its structures. As such, even if the Examiner remains unconvinced

with the Applicants' broader arguments above, e.g. with respect to claim 1, the Examiner can surely appreciate that the rejections over these dependent claims, claiming specific silicone structures, are improper.

In view of the foregoing, the Applicants submit that claims 1-11 and 13-20 are both novel and non-obvious over the prior art, including over the '994 patent. As such, the Applicants believe the subject application is in condition for allowance, and such allowance is respectfully requested. In the alternative, because finality of the present Office Action is improper, the Applicants respectfully request that the present Final Office Action be withdrawn and a subsequent Non-Final Office Action be mailed with the time period to reply to the subsequent Office Action restarted. Regarding this alternative, the Examiner has already agreed to withdraw finality of the present Office Action as noted above.

While it is believed that no additional fees are presently due, the Commissioner is authorized to charge the Deposit Account No. 08-2789, in the name of Howard & Howard Attorneys PLLC for any fees or credit the account for any overpayment.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS PLLC

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